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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,468	07/13/2001	O.C. Huse	64,294-034	7913

7590

01/16/2004

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EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,468

Applicant(s)

HUSE, O.C.

Examiner

Marc A Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 second paragraph rejection of Claims 1, 3 and 6 – 7, of record on page 2 of the previous Action, is withdrawn.

The and 35 U.S.C. 102(b) rejection of Claims 1, 3 and 6 – 7 as being anticipated by Speas (U.S. Patent No. 4,207,284), of record on page 3 of the previous Action, is withdrawn.

NEW REJECTIONS

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3 and 6 – 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase 'sides a reinforcement' is indefinite, as its meaning is unclear. For purposes of examination, the phrase will be assumed to mean 'sides; a reinforcement.' The phrase 'extending endlessly' is also indefinite as it is unclear how the pointed edge is endless. Claim 1 recites the limitation "at least three sides" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1772

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3 and 6 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speas (U.S. Patent No. 4,207,284).

With regard to Claims 1 and 6, Speas discloses a container assembly comprising a cylindrical container body (drum, therefore having an inner surface and outer surface; column 12, lines 1 – 18) comprising a thermoplastic material (polyethylene; column 12, lines 18) having a reinforcement bonded to the outer surface of the corner (insert which adds rigidity; column 13, lines 3 – 11; Figure 19), the reinforcement having a peripheral edge including a bottom surface and top surface, the thermoplastic material of the container body being disposed over the bottom and top surface (a lid is used which covers the top surface, the bottom surface being in contact with the container; column 12, lines 36 – 50; Figure 19) for mechanically locking the reinforcement to the container body (the reinforcement is locked with a locking ring; column 12, lines 51 – 55; Figure 19). Speas fails to disclose thermoplastic material which is disposed over a pointed edge of the reinforcement. However Speas discloses thermoplastic material which is disposed over a rounded edge of the reinforcement (column 12, lines 37 – 50). It would have been obvious for one of ordinary skill in the art to have provided for a reinforcement having a pointed edge, rather than a rounded edge, since the modification would have involved a mere change in the shape of the reinforcement. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Art Unit: 1772

With regard to the claimed aspect of the reinforcement being 'molded to,' the corner, and the container being 'injection molded,' the scope of the claims falls within the limitations of Speas as discussed above. The method of making the container assembly (product – by – process) is given little patentable weight. Applicant would need to demonstrate, by verified showing, the unexpected advantages accruing from the method of making as claimed.

With regard to Claim 3, the outer surface of the container and the reinforcement both comprise polyethylene (column 12, lines 1 – 18); the bond between the container and reinforcement (therefore, also, the edge of the reinforcement) is therefore cohesive.

With regard to Claim 7, Speas teaches the use of screws to further secure the reinforcement to the polyethylene (column 15, lines 16 – 24); the claimed aspect of the reinforcement comprising 'holes' therefore reads on Speas.

ANSWERS TO APPLICANT'S ARGUMENTS

6. Applicant's argument regarding the 35 U.S.C. 112 second paragraph rejection of Claims 1, 3 and 6 – 7 and 35 U.S.C. 102(b) rejection of Claims 1, 3 and 6 – 7 as being anticipated by Speas (U.S. Patent No. 4,207,284), of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn. The new 35 U.S.C. 112 second paragraph rejection of Claims 1, 3 and 6 – 7 and 35 U.S.C. 103(a) rejection of Claims 1, 3 and 6 – 7 as being unpatentable over Speas (U.S. Patent No. 4,207,284) above is directed to amended Claims 1, 3 and 6 – 7.

Art Unit: 1772

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

1/12/04